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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/661,859	09/12/2003	Jeffery T. Hebbard	013002-9050-00	8766
23409	7590	07/13/2004	EXAMINER	
MICHAEL BEST & FRIEDRICH, LLP			TORRES, ALICIA M	
100 E WISCONSIN AVENUE			ART UNIT	PAPER NUMBER
MILWAUKEE, WI 53202			3671	

DATE MAILED: 07/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/661,859	HEBBARD ET AL.
	Examiner Alicia M Torres	Art Unit 3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 12 September 2003.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) _____ is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-23 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11/14/03</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 20 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Hastings.

Hastings discloses a lawnmower comprising:

a deck (12) defining a discharge opening;

an engine (14) supported by the deck (12);

- a cutting blade (details not shown, see column 2, lines 52-56) rotating below the deck (12) in response to operation of the engine (14);

a bag assembly (17) releasably mounted to said deck (12) and including a bag (20) communicating with said discharge opening, at least one wheel (18), and a handle (19) movable between a retracted condition and an extended condition;

wherein when said bag assembly (17) is mounted to said deck (12), said handle (19) must be in said retracted condition; and

wherein said handle (19) is movable into said extended condition when said bag assembly (17) is detached from said deck (12) to facilitate rolling said bag assembly (17) away from the rest of said lawnmower, as per claim 20; and

wherein said bag assembly (17) includes at least one fixed tube (81), and wherein said handle (19) includes at least one sliding member (82) that is in telescoping relation with said fixed tube (81) for movement between said retracted and extended conditions, as per claim 22.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-4, 10, 12, 13, 15 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nuss in view of Sugiyama et al., hereafter Sugiyama.

5. In regards to claims 1-4 and 10 Nuss discloses a lawnmower comprising:
a deck (4) having a discharge opening (5);
an engine (unnumbered) supported by said deck (4) and having an output shaft (not shown) rotating in response to operation of said engine;
a cutting blade (not shown) interconnected with said output shaft under said deck (4) and rotatable in response to rotation of said output shaft to cut vegetation;
a mower handle (3) attached to said deck (4) and extending upwardly therefrom; and

a bag assembly (1) releasably attached to the rest of said lawnmower, at least one wheel (12) rotatably mounted to said frame (7), said at least one wheel (12) being in a stowed condition during lawnmower operation;

wherein during operation of said lawnmower, clippings from under said deck (4) are discharged into said bag (1) through said discharge opening and bag opening;

wherein said bag assembly (1) is detachable from the rest of said lawnmower to haul away clippings in said bag (1); and

wherein, to enable rolling said bag assembly (1) away from the rest of said lawnmower, said at least one wheel (12) at least partially supports said bag assembly (1) only when said bag assembly (1) is detached from the rest of said lawnmower, as per claim 1; and

wherein said bag assembly includes an axle interconnected with said frame and wherein said at least one wheel is mounted for rotation on said axle, as per claim 2; and

wherein said at least one wheel (12) is adjacent said mower handle (3) when said bag assembly (1) is attached to the rest of said lawnmower, as per claim 3; and

wherein said bag assembly (1) is oriented with said at least one wheel (12) on top when said bag assembly (1) is attached to the rest of said lawnmower, and wherein said bag (1) assembly (1) is oriented with said at least one wheel (12) on the bottom when rolling said bag assembly (1) away from the rest of said lawnmower, as per claim 4; and

wherein said bag assembly (1) further includes a means (2, 6) for attaching said bag assembly (1) to the rest of said lawnmower, at least one axle (unnumbered), and a lifting bar (11) to facilitate lifting said bag assembly (1) with respect to the rest of said lawnmower; wherein said at least one wheel (12) is supported for rotation on said at least one axle, as per claim 10.

Art Unit: 3671

However, Nuss fails to disclose wherein the bag assembly includes a frame, a bag attached to said frame and having a bag opening aligned with said discharge opening, as per claim 1; and

wherein all of said frame is contained within said bag except for said means for attaching, said lifting bar, and said at least one axle, as per claim 10.

Sugiyama discloses a similar device wherein the bag assembly includes a frame (10), a bag (9) attached to said frame (10) and having a bag opening (at 12) aligned with said discharge opening (not shown), as per claim 1; and

wherein all of said frame (10) is contained within said bag (9) except for said means for attaching (15) and said lifting bar (16), as per claim 10.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the frame and bag assembly of Sugiyama on the catcher of Nuss in order to provide support.

6. In regards to claims 12 and 13, Nuss discloses a bag assembly (1) for use on a lawnmower having a deck (4) with a discharge opening (5), the bag assembly (1) comprising:
 - a frame (7);
 - means (2, 6) for releasably mounting the frame (7) to the lawnmower;
 - having a bag opening (unnumbered) aligning with the discharge opening (5) when the bag assembly (1) is mounted on the lawnmower; and
 - at least one wheel (12) rotatably mounted to the frame (7), the at least one wheel (12) being in a stowed condition, in which it does not support the weight of the bag assembly (1)

Art Unit: 3671

when the bag assembly is mounted on the lawnmower, and the at least one wheel (12) at least partially supporting the bag assembly (1) when the bag assembly (1) is detached from the lawnmower to facilitate rolling the bag assembly (1) away from the lawnmower, as per claim 12; and

wherein the frame (7) includes at least one axle (unnumbered) rotatably supporting the at least one wheel (12), wherein the frame (7) includes a lifting bar (11) to facilitate lifting the bag assembly (1) with respect to the lawnmower, as per claim 13.

However, Nuss fails to disclose a bag supported by the frame, as per claim 12; and wherein all of the frame is contained within the bag except for the means for attaching, the lifting bar, and the at least one axle, as per claim 13.

Sugiyama discloses a similar device including a bag (9) supported by the frame (10), as per claim 12; and

wherein all of the frame (10) is contained within the bag (9) except for the means for attaching (at 12) and the lifting bar (16), as per claim 13.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the frame and bag assembly of Sugiyama on the catcher of Nuss in order to provide support.

7. In regards to claims 15 and 19, Nuss discloses a lawnmower comprising:
 - a deck (4) defining a discharge opening (5) in a rear surface thereof;
 - an engine (unnumbered) supported by said deck (4) and having an output shaft (not shown) extending down through said deck (4);

a cutting blade (not shown) mounted to said output shaft for rotation therewith to cut vegetation within said cutting space;

a plate (unnumbered) mounted to said rear surface of said deck (4);

a bag assembly (1) including a frame (7), and having a bag opening (not shown) aligned with said discharge opening (5) such that vegetation clippings flow out of said cutting space and into said bag (1), and a pair of axles (unnumbered) mounted to said frame (7);

a pair of wheels (12) rotatably supported by respective ones of said pair of axles;

wherein said bag assembly (1) is mounted to said plate with said wheels (12) at the top of said bag assembly (1) such that said wheels (12) are in a stowed condition and do not support the weight of said bag assembly (1) during operation of said lawnmower; and

wherein said bag assembly (1) is toppled over when said bag assembly (1) is detached from said deck (4) such that said wheels (12) are at the bottom of said bag assembly (1) and said bag opening is at the top of said bag assembly (1), such that said bag assembly (1) may be rolled away on said wheels (12), as per claim 15.

However, Nuss fails to disclose a bag assembly including a pair of attachment bars releasably engaging said plate to attach said bag assembly to said deck, a frame, a bag supported by said frame;

a door pivotally mounted to said plate and biased toward a closed position in which said door covers said discharge opening, said door being propped open by said bag assembly when said bag assembly is mounted on said deck such that said door is biased against said bag assembly to resist said attachment bars from disengaging said plate, as per claim 15; and

further comprising a bag handle mounted on said bag assembly, said bag handle being positioned between said bag and said door when said bag assembly is mounted to said plate, as per claim 19.

Sugiyama discloses a similar device including a bag assembly including a pair of attachment bars (15) releasably engaging said plate (not shown) to attach said bag assembly to said deck (2), a frame (10), a bag (9) supported by said frame (10);

a door (unnumbered) pivotally mounted to said plate and biased toward a closed position in which said door covers said discharge opening, said door being propped open by said bag assembly when said bag assembly is mounted on said deck (2) such that said door is biased against said bag assembly to resist said attachment bars (15) from disengaging said plate, as per claim 15; and

further comprising a bag handle (16) mounted on said bag assembly, said bag handle (16) being positioned between said bag (9) and said door when said bag assembly is mounted to said plate, as per claim 19.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the door of Sugiyama on the device of Nuss in order to provide for detachment of the catcher.

8. Claims 5-9 and 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nuss and Sugiyama as applied to claim 1 above, and further in view of Hastings.

The device is disclosed as applied above. Sugiyama further discloses a door (unnumbered) pivotally attached to said deck (2) and a biasing member biasing said door to a

Art Unit: 3671

position covering said discharge opening, wherein said door must be opened to permit said bag assembly (9) to be attached to the rest of said lawnmower (1), wherein said door engages a top surface of said bag assembly (9) when said bag assembly (9) is attached to the rest of said lawnmower (1), and wherein said handle (16) is between said door and said bag (9) when said bag assembly (9) is attached to the rest of the lawnmower (1), as per claim 9.

However, the combination fails to disclose wherein said bag assembly also includes a bag handle interconnected with said frame and movable between a retracted condition and an extended condition, as per claim 5; and

wherein said bag handle includes a fixed portion rigidly affixed to said frame and a moving portion in telescoping relation to said fixed portion, as per claim 6; and

wherein said bag handle includes first and second fixed tubes rigidly affixed to opposite sides of said frame, first and second moving tubes within said fixed tubes and movable with respect to said fixed tubes, and a cross portion interconnecting said first and second moving tubes, as per claim 7; and

wherein said bag handle must be in said retracted condition to enable said bag assembly to be attached to the rest of said lawnmower, and wherein said bag handle is movable to said extended condition when said bag assembly is detached from the rest of said lawnmower to facilitate rolling said bag assembly away from the rest of said lawnmower, as per claim 8; and

further comprising a handle assembly interconnected with said bag assembly frame, said handle assembly including first and second fixed tubes mounted on respective first and second sides of said frame, and a handle assembly including first and second side members slidable within said fixed tubes and a cross member interconnecting said side tubes and providing a

handle for a user to grasp when rolling said bag assembly away from the rest of said lawnmower, as per claim 16; and

further comprising a bag handle interconnected with said bag assembly and movable between a retracted condition and an extended condition, wherein said bag handle must be in said retracted condition when said bag assembly is mounted to said plate, as per claim 17; and wherein said bag handle is movable between said retracted and extended conditions in a telescoping manner, as per claim 18.

Hastings discloses a similar device wherein said bag assembly (17) also includes a bag handle (19) interconnected with said frame (20) and movable between a retracted condition and an extended condition, as per claim 5; and

wherein said bag handle (19) includes a fixed portion (81) rigidly affixed to said frame (20) and a moving portion (82) in telescoping relation to said fixed portion (81), as per claim 6; and

wherein said bag handle (19) includes first and second fixed tubes (81) rigidly affixed to opposite sides of said frame (20), first and second moving tubes (82) within said fixed tubes (81) and movable with respect to said fixed tubes (81), and a cross portion (unnumbered) interconnecting said first and second moving tubes (82), as per claim 7; and

wherein said bag handle (19) must be in said retracted condition to enable said bag assembly (18) to be attached to the rest of said lawnmower (11), and wherein said bag handle (19) is movable to said extended condition when said bag assembly (17) is detached from the rest of said lawnmower (11) to facilitate rolling said bag assembly (17) away from the rest of said lawnmower (11), as per claim 8; and

further comprising a handle assembly (19) interconnected with said bag assembly frame (20), said handle assembly (19) including first and second fixed tubes (81) mounted on respective first and second sides of said frame (20), and a handle assembly (19) including first and second side members (82) slidable within said fixed tubes (81) and a cross member (unnumbered) interconnecting said side tubes (82) and providing a handle for a user to grasp when rolling said bag assembly (17) away from the rest of said lawnmower (11), as per claim 16; further comprising a bag handle (19) interconnected with said bag assembly (17) and movable between a retracted condition and an extended condition, wherein said bag handle (19) must be in said retracted condition when said bag assembly is mounted to said plate (16), as per claim 17; and

wherein said bag handle (19) is movable between said retracted and extended conditions in a telescoping manner, as per claim 18.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the handle means of Hastings on the device of Nuss and Sugiyama in order to move the bag assembly over the ground surface.

9. Claims 11 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nuss and Sugiyama as applied to claims 10 and 13 above, and further in view of Shaw.

The device is disclosed as applied above. However, Nuss and Sugiyama fail to disclose wherein said bag includes a slit through which said at least one axle extends, and wherein said bag further includes at least one flap for releasably closing said slit during operation of said lawnmower, as per claims 11 and 14.

Shaw discloses a similar device wherein the bag (65) includes slits (82, 83) through which handles extend and wherein the bag (65) further includes at least one flap (87) for releasably closing said slit (82, 83) during operation of said lawnmower.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the flaps of Shaw on the device of Nuss and Sugiyama in order to allow removal of the handle.

10. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hastings in view of Nuss.

The device is disclosed as applied to claim 20 above. However, Hastings fails to disclose wherein the at least one wheel is at the top of the bag assembly when the bag assembly is mounted to the deck such that the at least one wheel bears no weight of the bag assembly during operation of the lawnmower.

Nuss discloses a similar device wherein the at least one wheel (12) is at the top of the bag assembly (1) when the bag assembly (1) is mounted to the deck (4) such that the at least one wheel (12) bears no weight of the bag assembly (1) during operation of the lawnmower.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the top-mounted wheel of Nuss on the device of Hastings in order to provide rolling support when the catcher is not in use.

11. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hastings in view of Sugiyama.

The device is disclosed as applied to claim 20 above. However, Hastings fails to disclose further comprising a door pivotally interconnected with said deck and biased to cover said discharge opening, wherein said handle is positioned between said door and said bag when said bag assembly is mounted on the rest of the lawnmower.

Sugiyama discloses a similar mower comprising a door (unnumbered) pivotally interconnected with said deck (2) and biased to cover said discharge opening, wherein said handle (16) is positioned between said door and said bag (9) when said bag assembly (9) is mounted on the rest of the lawnmower.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the door of Sugiyama on the device of Hastings in order to provide for detachment of the catcher.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Wolf, Uhlinger, and Cope have been cited as of interest.

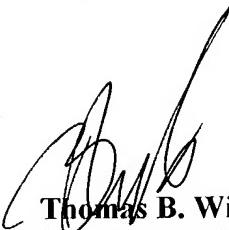
13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia M. Torres whose telephone number is 703-305-6953. The examiner can normally be reached Monday through Thursday from 7:00 a.m. – 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at 703-308-3870.

Application/Control Number: 10/661,859
Art Unit: 3671

Page 14

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 703-305-1113. The fax number for this Group is 703-872-9306.



Thomas B. Will
Supervisory Patent Examiner
Group Art Unit 3671

AMT
July 6, 2004